

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Cloey Romans	Team: Squad #15	CCRB Case #: 202001026	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/06/2020 8:40 PM, Thursday, 02/06/2020 9:00 PM	Location of Incident: § 87(2)(b) 44th Precinct stationhouse	18 Mo. SOL 3/23/2022	Precinct: 44		
Date/Time CV Reported Fri, 02/07/2020 8:40 AM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Fri, 02/07/2020 8:40 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Witness(es)	Home Address
§ 87(2)(b)	§ 87(2)(b)
§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. PO Jamie Truglio	17535	959786	044 PCT
2. SGT Timothy Burke	03879	950130	044 DET

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Dylan Mannion	15150	966689	044 PCT

Officer(s)	Allegation	Investigator Recommendation
A . PO Jamie Truglio	Abuse: Police Officer Jamie Truglio damaged § 87(2)(b) property.	§ 87(2)(b)
B . PO Jamie Truglio	Abuse: Police Officer Jamie Truglio entered § 87(2)(b)	§ 87(2)(b)
C . SGT Timothy Burke	Abuse: Sergeant Timothy Burke did not process § 87(2)(b) complaint regarding an officer.	§ 87(2)(b)

### Case Summary

On February 7, 2020, § 87(2)(b) submitted this complaint in-person with the Civilian Complaint Review Board.

At approximately 8:40 p.m. on February 6, 2020, Police Officers Jamie Truglio and Dylan Mannion of the 44<sup>th</sup> Precinct visited § 87(2)(b) apartment at § 87(2)(b) in the Bronx, in response to a 911 call from § 87(2)(b) estranged husband. § 87(2)(b) alleged that § 87(2)(b) would not return his personal belongings to him which were in the apartment they previously shared. After the officers arrived at the location, § 87(2)(b) refused to open her apartment door further than the secured chain lock. PO Truglio proceeded to push the door open with her shoulder, breaking the chain, and entered § 87(2)(b) apartment (**Allegation A: Abuse of Authority – Property Damaged,** § 87(2)(g) (**Allegation B: Abuse of Authority – Entry of Premises,** § 87(2)(g) After speaking to § 87(2)(b) inside her apartment, PO Truglio exited and completed a Domestic Incident Report with § 87(2)(b) and PO Mannion in the hallway outside § 87(2)(b) apartment, then left the incident location. No summonses or arrests were made.

At approximately 9:00 p.m. on February 6, 2020, § 87(2)(b) visited the 44<sup>th</sup> Precinct stationhouse to file a complaint against PO Truglio. § 87(2)(b) spoke to the Desk Sergeant, Sgt. Timothy Burke, who refused to process her complaint (**Allegation C: Abuse of Authority – Refusal to Process a Civilian Complaint,** § 87(2)(g) § 87(2)(b) immediately returned home from the stationhouse and has had no further police interaction with the officers alleged.

### Findings and Recommendations

**Allegation (A) Abuse of Authority: Police Officer Jamie Truglio damaged § 87(2)(b) property.**

**Allegation (B) Abuse of Authority: Police Officer Jamie Truglio entered § 87(2)(b)**

It is undisputed that PO Truglio entered § 87(2)(b) on February 6, 2020.

According to event information, 911 audio, and the Domestic Incident Report (DIR) from the incident (Board Review 01 and 02), § 87(2)(b) called 911 at 7:04 p.m. alleging that his ex-wife, § 87(2)(b) was refusing to return his passport to him which he had left in the apartment they previously shared at § 87(2)(b) § 87(2)(b) explicitly stated that there were no weapons and no injuries. The job was marked as a Family Dispute and at 7:55 p.m., PO Truglio and PO Mannion were assigned to respond.

During her sworn statement (Board Review 03), § 87(2)(b) stated that at approximately 8:40 p.m. she heard multiple knocks on her front door and police officers announced themselves. § 87(2)(b) proceeded to look through the peephole where she saw PO Truglio and PO Mannion standing with § 87(2)(b) had previous domestic violence complaints against § 87(2)(b) and did not feel safe opening the door for the officers with him there, though she did not express this to the officers. Through the closed door, § 87(2)(b) asked the officers what they wanted. PO Truglio told § 87(2)(b) she needed to speak to her and that she needed to open the door to do so. § 87(2)(b) told PO Truglio that they could speak through the door and PO Truglio again commanded § 87(2)(b) to open the door and that if she did not, she would find something to break the door. § 87(2)(b) placed the chain lock on the door, opened it approximately four

inches until the chain stopped, and then positioned herself in front of the opening so her right-side body and right-side face were exposed to PO Truglio. § 87(2)(b) did not have anything in her hands. PO Truglio informed § 87(2)(b) that the door being open like that would not work and that she needed to speak face to face with her but did not express why. § 87(2)(b) asked PO Truglio if she had a court order to enter the apartment and PO Truglio stated she did not need one and that if § 87(2)(b) did not open the door, she would break it. § 87(2)(b) again refused to open the door for PO Truglio, who then proceeded to kick the front door open with her right foot, breaking the chain lock. PO Truglio stepped through the doorway and stood just past the front door, on the interior portion of § 87(2)(b) apartment. PO Truglio explained she and PO Mannion were at the apartment because of § 87(2)(b) passport. PO Mannion did not enter the apartment. § 87(2)(b) told PO Truglio that she did not have § 87(2)(b) documents and that PO Truglio was not allowed in her apartment without a court order. § 87(2)(b) proceeded to show PO Truglio domestic violence paperwork previously filed against § 87(2)(b) in addition to a prior DIR. PO Truglio reviewed the paperwork then asked § 87(2)(b) if she was going to cooperate. § 87(2)(b) stated she was not going to say anything more. PO Truglio told § 87(2)(b) she would be taking § 87(2)(b) report instead, then exited the apartment to complete a DIR with § 87(2)(b). § 87(2)(b) closed her apartment door and did not have any further interaction with PO Truglio or PO Mannion.

Cell phone video (Board Review 04) recorded by § 87(2)(b) brother, § 87(2)(b) who was also inside the apartment during the incident, captures PO Truglio standing in the doorway of § 87(2)(b) apartment with her right foot and right-side body inside. PO Truglio tells § 87(2)(b) that when an officer responds to a 911 call and makes a command to open the door, an attorney cannot tell the individual not to comply. At 1:55, PO Truglio faces § 87(2)(b) and states, "I am [standing in your apartment]. Clear as day. You have me on video standing in your apartment. Can we now move on?" § 87(2)(b) then tells PO Truglio that she broke the door when she gained entry and PO Truglio responds, "I did push the door because you cracked it open, had something in your hand, and were refusing to go forward." § 87(2)(b) then tells PO Truglio she will not speak to her and PO Truglio states she will do the report with § 87(2)(b) only, then exits the apartment.

§ 87(2)(b) was unable to be contacted throughout the investigation and a statement was unable to be obtained from him.

During her CCRB interview (Board Review 05), PO Truglio stated that she was assigned the job based on a 911 call to respond to a family dispute at § 87(2)(b) but that neither she nor PO Mannion received any further information regarding the details of the incident before arriving. After entering the apartment building, to which PO Truglio did not recall how she and PO Mannion gained access, they went to the third floor where § 87(2)(b) was waiting in the hallway outside of § 87(2)(b). § 87(2)(b) told PO Truglio he had been locked out of the apartment by his wife, § 87(2)(b) and that he wanted to retrieve his belongings. PO Truglio knocked on the door, though she did not recall if she or PO Mannion identified themselves. § 87(2)(b) opened the door, leaving the chain lock secured. PO Truglio stated that as a personal precaution, she does not stand in front of closed doors. PO Truglio did not recall if she told § 87(2)(b) to open the door further. PO Truglio did not state seeing anything in § 87(2)(b) hands. PO Truglio stated she then leaned her right-side body against the partially opened door, and that it popped open. PO Truglio did not recall what happened to the chain lock during this process. PO Truglio then entered the apartment and stood near the front door, on the interior of the apartment. PO Truglio did not recall if she had a conversation with § 87(2)(b) about entering the apartment before doing so. Once inside the apartment, PO Truglio stated she attempted to have a conversation with § 87(2)(b) but that § 87(2)(b) refused to speak to her. PO Truglio then exited the apartment and

completed a DIR with § 87(2)(b) in the hallway outside of the apartment.

PO Truglio alleged that when speaking to § 87(2)(b) she had difficulty understanding her and attempted to call the Language Line for translation. PO Truglio stated she did not recall at what point in the interaction she attempted this, but that § 87(2)(b) refused to speak to her, so the service was not used. PO Truglio stated that to resolve Domestic and Family Disputes, police procedure requires that a conversation must be had with all involved parties which was why PO Truglio took the action to enter § 87(2)(b) apartment; so that she could speak face to face with her and resolve the job. PO Truglio stated that she did not recall having any specific safety concerns regarding § 87(2)(b) or § 87(2)(b) wellbeing prior to entry. PO Truglio did not assert that § 87(2)(b) or anyone within her apartment, was suspected of criminal activity which required immediate law enforcement entry.

PO Mannion is on long-term military leave without an expected return date. A statement was unable to be obtained from him.

The memo book entry from PO Truglio (Board Review 06) states the job number, location, time, and final disposition with no additional information.

Body-worn Camera (BWC) video for PO Truglio (Board Review 07) begins as she is already inside of § 87(2)(b) apartment and does not capture the entry. PO Truglio is captured telling § 87(2)(b) that she cannot refuse entry during a 911 call, but she does not explain why. At 00:01:52 (embedded at 20:40:48), PO Truglio tells § 87(2)(b) that he and § 87(2)(b) need to open the door for PO Truglio's safety. At 00:02:22 (embedded 20:40:18), § 87(2)(b) alleges that PO Truglio broke her door to gain entry and PO Truglio states, "I did push the door, because you cracked it open, and you had something in your hand, and you were refusing to move forward." § 87(2)(b) can be seen holding a notebook and pen. PO Truglio then proceeds to exit the apartment and complete a DIR with § 87(2)(b).

No BWC video was yielded for PO Mannion.

People v. Doll, 21 N.Y.3d 665 (Board Review 08) outlines the parameters of Emergency Doctrine when responding to a 911 call. The emergency doctrine recognizes that the Constitution is not a barrier to a police officer who is attempting to assist someone in immediate danger, which therefore justifies otherwise impermissible police conduct when it is an objectively reasonable response to an apparent exigent circumstance. The means to qualify that there is an emergency and immediate need for police intervention for the protection of life, it must be grounded in empirical facts. The emergency doctrine allows police to conduct a warrantless residential entry without knowing if a crime has taken place inside if the incident fits within the parameters of exigent need.

People v McBride, 14 N.Y.3d 440 (Board Review 09) addresses the emergency doctrine by establishing the rule of exigency, defining exigent circumstances as situations in which warrantless entry may be permissible if the following factors are assessed prior to entry: (1) the gravity or violent nature of the offense with which the suspect within the location is to be charged, (2) whether the suspect is reasonably believed to be armed, (3) a clear showing of probable cause to believe that the suspect committed the crime, (4) strong reason to believe that the suspect is in the premises being entered, (5) a likelihood that the suspect will escape if not swiftly apprehended, and (6) the peaceful circumstances of the entry. The ruling clarifies that these factors serve as a guide for precedent, but that the list is illustrative and not to be viewed as definitive or exhaustive. Ultimately, the rule establishes that urgent law enforcement objectives justify a warrantless entry only in cases of exigency.

People v. Garrett, 23 N.Y.3d 878 (Board Review 10) offers precedent that the emergency doctrine was not met during the entry of a residential apartment because a three-part test was not satisfied: the officers did not have reasonable grounds to believe that there was an emergency at hand and immediate need for assistance for the protection of life or property, additionally citing there was a minimal investigation done.

It is evident from both parties' statements and two separate sources of video evidence that PO Truglio pushed open § 87(2)(b) apartment door, severed the chain, and entered her apartment.

§ 87(2)(g)  
[REDACTED]

[REDACTED]

[REDACTED]

**Allegation (C) Abuse of Authority: Sergeant Timothy Burke did not process § 87(2)(b) complaint regarding officers.**

During her sworn statement (Board Review 03), § 87(2)(b) stated that at approximately 9:00 p.m., she entered the 44<sup>th</sup> Precinct Stationhouse to file a complaint regarding PO Truglio. § 87(2)(b) walked in through the single public main entrance door and stopped an unidentified officer who was walking through the main lobby, asked him who the sergeant was, and was directed to the front desk where Sgt. Burke was. § 87(2)(b) approached the front desk and told Sgt. Burke that she wanted to file a complaint, explaining that PO Truglio broke her door and entered her apartment. Sgt. Burke told § 87(2)(b) to wait and walked away, then returned and told § 87(2)(b) that he was informed that at the location, PO Truglio and PO Mannion were permitted by § 87(2)(b) to enter the apartment. § 87(2)(b) told Sgt. Burke that § 87(2)(b) no longer lived at the location. Sgt. Burke dismissed § 87(2)(b) complaint due to § 87(2)(b) consent, and § 87(2)(b) then left the stationhouse to file a complaint with the CCRB.

§ 87(2)(b) stated that though there were other officers to witness the interaction, she was unable to identify them. Stationhouse footage (Board Review 11 and 12) was obtained during the investigation, though it did not capture the allegation. The footage obtained features the exterior entrance of the stationhouse only, therefore illustrating § 87(2)(b) entrance and exit, but not who she spoke to or the contents of that conversation.

During his CCRB interview (Board Review 13), Sgt. Burke stated he was assigned as the Desk Officer during the incident and was present at the desk during this time frame but had no recollection of § 87(2)(b) or a civilian attempting to file a complaint. Sgt. Burke did not recall



speaking to any civilian in the stationhouse on this date and did not recall if he spoke to any civilians on this date regarding another officer. Sgt. Burke did not recall having a conversation with PO Jamie Truglio or PO Dylan Mannion regarding a home visit they did that day. Sgt. Burke did not recall having a conversation with any civilian on this date regarding those officers. The investigator read § 87(2)(b) pedigree information to Sgt. Burke, self-described by § 87(2)(b) during her statement, and Sgt. Burke did not recall the civilian. The investigator showed PO Truglio's BWC video from the 00:00:00 mark until 00:00:10 (with the image of § 87(2)(b) captured) and Sgt. Burke did not recognize the civilian. Sgt. Burke denied ever refusing to process a complaint for § 87(2)(b).

No other officers or witnesses were able to be identified during the investigation.

There are no notations in the 44<sup>th</sup> Precinct Command Log relevant to this incident (Board Review 06).

No BWC was captured from Sgt. Burke and he has no memo book entries on this date specific to the incident (Board Review 14).

§ 87(2)(g)

### **Civilian and Officer CCRB Histories**

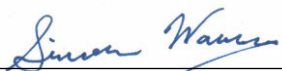
- This is the first CCRB complaint to which § 87(2)(b) has been a party.
- PO Truglio has been a member of service for six years and has been a subject in six CCRB complaints and twelve allegations, none of which were substantiated. § 87(2)(g)
- Sgt. Burke has been a member of service for ten years and has been a subject in fifteen CCRB complaints and 34 allegations, of which two were substantiated:
  - #201900379 involved a substantiated allegation of Discourtesy against Sgt. Burke. The Board recommended Instruction and the NYPD imposed Instruction.
  - # 201908431 involved a substantiated allegation of Discourtesy against Sgt. Burke. The Board recommended Formalized Training and the NYPD imposed Formalized Training.

### **Mediation, Civil, and Criminal Histories**

- This complaint was not suitable for mediation.
- As of December 10, 2021, the New York City Office of the Comptroller has no record of a Notice of Claim being filed in regards this to complaint (Board Review 15).
- [§ 87(2)(b)] [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Squad: 15

Investigator:	<u>Cloey Romans</u>	<u>Inv. Cloey Romans</u>	<u>12/22/2021</u>
	Signature	Print Title & Name	Date

Squad Leader:	<u></u>	<u>IM Simon Wang</u>	<u>12/23/21</u>
	Signature	Print Title & Name	Date

Reviewer:	<u></u>	<u></u>	<u></u>
	Signature	Print Title & Name	Date